

Richard L. McCulley and Mary Ann McCulley

v.

Town of Alton

Docket No. 6075-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$135,300 (land, \$91,000; buildings, \$44,300) on Map 52, Lot 15, Rt. 11D. For the reasons stated below, the appeal for abatement is granted.

The Taxpayers have the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayers paying an unfair and disproportionate share of taxes. See RSA 76:16-a; Tax 201.04(e); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayers carried this burden and proved they were disproportionally taxed.

The Taxpayers argued the assessment was excessive because the \$91,000 assessment for land is inconsistent with other non-waterfront properties in the area. The view is partially obstructed. A septic tank servicing the waterfront Lot 25 is located on the Taxpayer's front lawn. The \$52,700 (waterfront influence - right-of-way) charge seemed excessive, considering the range used.

The Town argued the assessment was proper because the subject lot was considered "stand alone". Value added for right-of-way access (\$52,700) and view (\$10,000). Range is \$25,000 for right-of-way to water to \$125,000 for superior facilities such as dock, moorings, beach. The view is subject to a range of \$5,000 to \$15,000.

Based on the evidence we find the correct assessment should be \$104,770 (land, \$60,470 and building \$44,300). This assessment is ordered because the Board finds a 10% adjustment on the lot value and reduced the \$52,700 charge to \$25,000 for the right-of-way access to the water (across Rt. 11D).

If the taxes have been paid, the amount paid on the value in excess of \$104,770 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Michele E. LeBrun, Member

Date: October 7, 1991

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Richard L. & Mary Ann McCulley, taxpayers; and the Chairman, Selectmen of Alton.

Brenda L. Tibbetts, Clerk

Date: October 7, 1991

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